MONTANA LEGISLATIVE HISTORY

Chapter 384 19 85

Bill H _____ S 158 Original bill & history ✓ C

H. Committee on Human Services & Aging			S. Committee on Public Health, Welfare & Safety		
Hearing Date(s)	Mar 01	✓ C	Hearing Date(s)	Feb 13	✓ C
	Mar 15	✓ C		Feb 15	✓ C
		C			C
		C			C
Date Out	Mar 16	✓ C		Feb 15	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

SB 157 INTRODUCED BY WATERMAN

REQUIRE A MINOR TO WEAR A HELMET WHEN RIDING A BICYCLE

1/16	INTRODUCED		
1/16	FIRST READING		
1/16	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/23	HEARING		
1/30	TABLED IN COMMITTEE		
2/20	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	25	25
2/23	MISSED TRANSMITTAL DEADLINE FOR 45TH DAY DIED IN COMMITTEE		

SB 158 INTRODUCED BY WATERMAN, ET AL.

IMPLEMENT LONG-TERM CARE REFORM

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABLILITATION SERVICES

1/16	FISCAL NOTE REQUESTED		
1/16	INTRODUCED		
1/16	FIRST READING		
1/16	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/23	FISCAL NOTE RECEIVED		
1/23	FISCAL NOTE PRINTED		
2/13	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/16	2ND READING PASSED	50	0
2/17	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO HUMAN SERVICES & AGING		
3/01	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	98	0
3/28	3RD READING CONCURRED	98	0
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR CHAPTER NUMBER 384 EFFECTIVE DATE: 10/01/95		

SB 159 INTRODUCED BY L. NELSON

AUTHORIZE DEPARTMENT OF TRANSPORTATION TO ENTER INTO LEASE AGREEMENTS TO ALLOW COMMERCIAL ACTIVITY AT REST AREAS PROVIDED THE ACTIVITY DOES NOT INTERFERE WITH INGRESS OR EGRESS TO AREA BY A MOTORIST

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

1/17	INTRODUCED		
1/17	FIRST READING		
1/17	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/18	FISCAL NOTE REQUESTED		
1/24	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
2/02	HEARING		
2/06	TABLED IN COMMITTEE		
2/23	MISSED TRANSMITTAL DEADLINE FOR 45TH DAY DIED IN COMMITTEE		

SENATE BILL NO. 158

INTRODUCED BY Waterman, Bohlinger, Christiaens, B. C. Brown, Cobb, Bengtson, Regan, Halligan, Hazelbaker, Hazen, Johnson, Keating, Mangan, Mercer, Richards, Swysgood, Tash, Thayer, Tropila, Wilson, Jacobson, Eck

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING LONG-TERM CARE REFORM; STATING THE PURPOSE AND POLICY OF THE STATE IN REGARD TO PROVIDING STATE PROGRAMS OF ASSISTANCE FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES; DIRECTING STATE AGENCY COOPERATION IN THE DEVELOPMENT, IMPLEMENTATION, AND COORDINATION OF STATE PROGRAMS OF ASSISTANCE FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES; AND REQUIRING A REPORT TO THE 55TH LEGISLATURE ON THE PROGRESS OF LONG-TERM CARE REFORM."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Montana Long-Term Care Reform Act".

NEW SECTION. **Section 2. Purpose -- policy.** (1) The legislature finds that in keeping with the traditional concept of the inherent dignity of the individual in a democratic society, the elderly or persons with disabilities should be able to live as independently as possible.

(2) The legislature further finds that:

(a) the ability to continue to live in a person's own residence or in the least restrictive setting best serves the health and dignity of the elderly or persons with disabilities;

(b) state programs of assistance for the elderly or persons with disabilities should be coordinated in a manner that best serves the interests of the recipients;

(c) state programs of assistance for the elderly or persons with disabilities should encourage the development of services that support the maintenance of lives as independently as possible;

(d) state programs of assistance for the elderly or persons with disabilities should encourage the development of affordable services for persons seeking services, whether financed through private means or public means;

(e) the elderly or persons with disabilities should be able to obtain insurance and other means of

private financing for services that are affordable and readily available; and

(f) state agencies are required to carry out their various responsibilities for the provision of assistance, the protection of the elderly and persons with disabilities, and the licensing of facilities and professions in accordance with [sections 1 through 3].

(3) The legislature declares that the policy of this state is to:

(a) respect the dignity of persons in the provision of state-sponsored and state-funded services for the elderly and persons with disabilities by seeking to maintain the maximum level of independence possible for those persons receiving services;

(b) foster the development of community services that allow a person to choose to remain in a person's own residence or in the least restrictive setting;

(c) foster coordination of services for the elderly or persons with disabilities among the various public and private programs; and

(d) foster the development of private means of financing services for the elderly or persons with disabilities.

NEW SECTION. **Section 3. Long-term care service development -- coordination -- delivery.** (1) The departments of social and rehabilitation services, family services, health and environmental sciences, and corrections and human services shall cooperate in the development, implementation, and coordination of state programs of assistance for the elderly or persons with disabilities.

(2) The planning and delivery systems that provide state programs of assistance for the elderly and persons with disabilities must be jointly coordinated to foster:

(a) efficient and cost-effective financing, service delivery, intake, eligibility, assessment, and other measures, as appropriate; and

(b) general development of service systems that may serve persons with either private means or public means of financing services at a reasonable cost.

(3) State programs of assistance for the elderly or for persons with disabilities should be made available in the most appropriate, most cost-effective, and least restrictive residential setting integrated into a community.

(4) State programs of assistance that provide services or oversight in order to maintain or to protect a person's health and social life should recognize the person's dignity and independence.

NEW SECTION. **Section 4. Report on implementation of long-term care reform.** The department of social and rehabilitation services in cooperation with the departments of family services, health and environmental sciences, corrections and human services, labor and industry, and commerce shall present a report to the 55th legislature on the implementation of long-term care reform. The report should include suggested legislation, if any, to make necessary changes for the implementation of long-term care reform, including but not limited to the reform of licensing for facilities and professions.

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [sections 1 through 3].

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0158, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act implementing long-term care reform; stating the purpose and policy of the state in regard to providing state programs of assistance for the elderly and for persons with disabilities; directing state agency cooperation in the development, implementation, and coordination of state programs of assistance for the elderly and for persons with disabilities; and requiring a report to the 55th legislature on the progress of long-term care reform.

ASSUMPTIONS:
1. The Executive Budget present law base serves as the starting point from which to calculate any impact due to this proposed legislation.
2. All impacted state agencies will cooperate to prepare a report to the 55th Legislature on the implementation of long-term care reform.
3. All requirements under this bill can be met by state agencies within their present law base budgets.

FISCAL IMPACT:
None.

Dave Lewis 1-22-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

MIGNON WATERMAN, PRIMARY SPONSOR DATE

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By ACTING CHAIRMAN ARNIE MOHL, on February 13, 1995, at 12:05

ROLL CALL

Members Present:
Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Arnie A. Mohl (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 158, SB 236, SB 248, SB 339
Executive Action: None

{Tape: 1; Side: 1}

HEARING ON SB 158

Opening Statement by Sponsor:

SENATOR MIGNON WATERMAN, SD 26, Helena, said SB 158 deals with long-term care. She said, they have been working in the area of long-term care for a couple of years because the cost of long-term care, in Montana, is one of the fastest growing and most expensive sections of the Medicaid budget. In the last Legislative session, language was added to HB 2 asking the Department to consider community based long-term care services that are appropriate and cost effective. The result of that language is SB 158.

SB 158 is a policy statement implementing long-term care reform in the state and makes it a policy of the state to develop a system allowing people to stay in their own home, or least restrictive setting in their community, for both the elderly and the disabled; develop state programs to help people coordinate services within the community, and develop a state program of assistance for elderly persons with disabilities, which allows them to remain as independent as possible. It also requires the state to develop cost-effective private financing of insurance programs that are affordable for elderly for long-term care. Oregon has been very aggressive in developing community-based services. In Montana, about 1/5 of our long-term care budget goes to community-based services, with the bulk of the funding going to nursing home services, which are the most expensive for the elderly and the disabled. Oregon has been able to direct about 20% of their long-term care budget to community-based services, with an estimated savings of over $1 million in Medicaid long-term care costs, and at the same time providing better services, even with a 40% increase in the number of elderly.

Proponents' Testimony:

Peter Blouke, spoke briefly from his written testimony in support of SB 158. **EXHIBIT 1.**

Evelyn Havskjold, representing Hill County Area 10 Agency on Aging, read her written testimony in support of SB 158. **EXHIBIT 2**

Hank Hudson, Director, Department of Family Services, spoke in support of SB 158. He said his department has been working towards a strategy for long-term care, and all issues dealing with long-term care and aging. SB 158 is the next step in getting together the best plan for long-term care in Montana.

Bill Olson, with AARP, testified in support of SB 158 and urged its passage.

Charles Briggs, Director, Rocky Mountain Agency on Aging in Helena, said he supports SB 158 and the language of this bill is the result of a study by SRS involving consumers and providers, the Governor's Council on Aging, and state agency representation, looking at the whole issue of long-term care delivery system reform.

Ed Caplis, Executive Director, Montana Senior Citizens Association, said they support SB 158.

Mary Allen, representing Montana Area Agencies on Aging Association, spoke in support of SB 158. She said it will provide the state and community to effect change and meet the increasing needs of Montanan's long-term care. **EXHIBIT 3.**

Kate Cholewa, representing the Human Services Foundation, urged the Committee's support of SB 158.

Charles Rehbein, Coordinator on Aging, Department of Family Services, said he supports SB 158. The aging population in Montana is growing and, in the past 5 years, the senior population, 85 and older group, has doubled. It went from 10,800 to its present over 20,000. The need for long-term care planning is essential.

Mike Bellows, representing Montana Coalition on Insurance Reform, said they support SB 158. There is a need for services to be provided at a reasonable cost and provide services to those who don't necessarily need skilled nursing care in their own home or personal care home.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SENATOR WATERMAN said SB 158 has truly been a collaborative effort of numerous state department and senior citizens groups. Referring to an article, **(EXHIBIT 4)** she said it sums up the problems that have been created as the Medicaid system evolved over the years. Several states are looking at a fundamental systemic change in how services are provided, and that's what SB 158 intends to do.

HEARING ON SB 236

Opening Statement by Sponsor:

SENATOR MIGNON WATERMAN, SD 26, Helena, said SB 236 is a more complex bill than SB 158. Although SB 236 bill addresses the same subject, it is a very different bill than she carried during the special Session in 1993. It was a controversial bill and was a more aggressive bill, by which the state would have seen more financial benefits. She said SB 236 will bring Montana law in compliance with new federal standards, but more importantly, will insure, even in difficult economic times, the Medicaid program in Montana for long-term care will be preserved for the truly needy. We need to keep in mind as long-term care and the Medicaid program, is Medicaid is a welfare program for needy.

Congress enacted Medicaid in 1965 to insure access to health care for poor women and children. It quickly became the first major third-party financing source for long-term care in this nation. Over several years, estate planners devised ways to help people divest in sheltered assets so virtually anyone could qualify for Medicaid long-term service coverage. As an example, people could divest themselves of all their income and become Medicaid eligible. Medicaid was not designed for people with large assets to be sheltered to pass them on to their children.

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL DATE 2/13/95

NAME	PRESENT	ABSENT	EXCUSED
LARRY BAER	X		
SHARON ESTRADA	X		
ARNIE MOHL	X		
MIKE SPRAUGE	X		
DOROTHY ECK	X		
EVE FRANKLIN	X		
TERRY KLAMPE	X		
STEVE BENEDICT, VICE CHAIRMAN	X		
JIM BURNETT, CHAIRMAN	X		

SEN:1995
wp.rollcall.man
CS-09

SOCIAL AND REHABILITATION SERVICES

DATE 2/13/95
BILL NO. SB 158

MARC RACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210

TESTIMONY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES BEFORE THE SENATE PUBLIC HEALTH & SAFETY COMMITTEE
(Re: SB 158 - Montana Long-Term Care Reform Act)

Senate Bill 158 has three components. First, it sets forth a policy for Montana's long term care system and declares the guiding principles for the development and implementation of services within the system. Second, the bill mandates that various state agencies cooperate in developing, implementing and coordinating state long term care programs. Finally, SB 158 requires a report to the 55th Legislature on the progress of long term care reform.

In 1993, the Legislature mandated the department of social and rehabilitation services to develop a continuum of care designed to limit the growth of state expenditures for long-term care services to people who are elderly or disabled. As the department worked to carry out this mandate, the need for a system of coordinated long term care services became apparent.

Montana offers a variety of programs and services within several agencies which support and assist those people who are elderly or have disabilities and need long term care. Those programs and services, however, are frequently not well coordinated; the result is a structure which is fragmented and confusing for both those seeking services and those providing services. Thus, the lack of a system means that people seeking services must respond to requests for the same information by different agencies. Conversely, because state agencies currently do not have a common intake process nor a shared information database, the agencies cannot serve people in a coordinated manner nor can they determine whether an individual has been served in the most efficient manner.

This bill proposes to remedy these problems by setting forth principles and policies to guide the development of Montana's long term care system. These principles and policies have developed from discussions carried out in several forums. The directors of the departments of family services, health and environmental services, corrections and human services, and social and rehabilitation services have been meeting regularly over the last several months to discuss and move toward coordinated long term care policies and programs. Additionally, members of the long term care subcommittee of the Governor's Council on Aging have considered these issues in depth.

The bill states that Montana's long term care system must:

*respect the dignity of the individual;
*seek to encourage a maximum level of individual independence;
*include community services which allow the person to continue to live at home;
*encourage services which are affordable to all Montanans;
*foster private financing of services; and
*be a system of coordinated services and programs which are accessible and cost-effective.

To ensure the coordination of services, the bill also directs the departments of social and rehabilitation services, family services, health and environmental sciences, and corrections and human services to cooperate in the development and implementation of state programs. Through joint planning and delivery systems, Montana can build a system of cost-effective, accessible programs to assist the elderly and persons with disabilities. Such elements as a common intake and assessment process will provide easy entry of the individual into the system of services and also allow for efficient program management and accountability.

Finally, the bill requires a report to the 55th Legislature which presents progress from these efforts and recommends further changes needed to establish Montana's long term care system.

On behalf of the Department of Social and Rehabilitation Services, I urge you to pass SB 158. Thank you for holding this hearing and listening to my comments.

Submitted by: Peter C. Blouke

Peter Blouke, Director
Department of Social and
Rehabilitation Services

SENATE HEALTH & WELFARE
EXHIBIT NO. 2
DATE 2/13/95
BILL NO SB 158

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: FOR THE RECORD, MY NAME IS EVELYN HAVSKJOLD. I REPRESENT HILL COUNTY AREA X AGENCY ON AGING. I AM TESTIFYING AS A PROPONENT OF SENATE BILL #158.

I BELIEVE LONG TERM CARE PLANNING IS A KEY ISSUE WE MUST FACE IN OUR STATE IF WE ARE GOING TO MEET THE EVER INCREASING NEED FOR SERVICES TO OUR ELDERLY AND DISABLED CITIZENS. AND THIS BILL IS PART OF THAT PROCESS.

I WOULD LIKE TO POINT OUT THE UNDER THE OLDER AMERICANS ACT AS WELL AS MONTANA'S OLDER AMERICANS ACT, THE OFFICE ON AGING IN THE DEPARTMENT OF FAMILY SERVICES IS REQUIRED TO COORDINATE AND DEVELOP A COMPREHENSIVE DELIVERY SYSTEM OF SERVICES FOR MONTANA'S ELDERLY. IN THE LAST YEAR AND A HALF, THE OFFICE ON AGING THROUGH THE GOVERNOR'S ADVISORY COUNCIL ON AGING HAS TAKEN AN ACTIVE ROLE IN BEGINNING TO ADDRESS THIS ISSUE. THROUGH THEIR ACTIONS, THE OFFICE ON AGING HAS REVISED THE AREA PLAN FORMAT TO ADDRESS LONG TERM CARE ISSUES AND CONCERNS IN EACH COUNTY IN MONTANA. BUT, THIS IS ONLY A START. WE NEED TO DEVELOP LONG TERM CARE PLANS FOR EACH AND EVERY COMMUNITY IN MONTANA IF WE ARE REALLY GOING TO IDENTIFY THE SERVICES AVAILABLE, THE NEEDS AND THE UNMET NEEDS OF OUR CITIZENS AND THEN LAY OUT A FRAMEWORK FOR THE NEXT TEN TO TWENTY YEARS WHEN EVERYONE IN THIS ROOM WILL MOST LIKELY BE IN THEIR SIXTIES, SEVENTIES OR EVEN OLDER.

AS A PROPONENT FOR THIS BILL, I ASK FOR YOUR SUPPORT AND RECOMMEND THAT THE OFFICE ON AGING AS WELL AS THE ENTIRE AGING NETWORK HAVE MORE OF A MAJOR ROLE IN DEVELOPING LONG TERM CARE SERVICES, COORDINATION AND DELIVERY.

THANK YOU.

TESTIMONY ON BEHALF OF THE
MONTANA AREA AGENCIES ON AGING ASSOCIATION
ON SB 158, FEBRUARY 13, 1995

DATE 2/13/95
BILL NO. SB 158

My name is Mary Allen and I rise on behalf of Montana Area Agencies on Aging Association in support of SB 158.

Montanas Area Agencies on Aging are public or non profit agencies, designated by the State Office on Aging, to address the needs and concerns of older Montanans at the local level. Each of the eleven Area Agency on Aging in the State is required to have an advisory council, comprised primarily of older persons, to review and comment on all programs affecting the elderly at the community level.

With the definition of "long term care" now including home and community based (care) as well as institutional care, the concept of a "continuum of care stresses the need of the chronically ill elderly for different levels of care as health conditions and degree of illness varies and this continuum of care then implies a choice of the most appropriate services. Increased provision of community alternatives helps the impaired, less than fully sufficient elderly function at the highest possible level of well being in the least restrictive setting. The idea is to foster as much self sufficiency and independence as possible while allowing the family to carry part of the responsibility for care. In home services such as home delivered meals, home health agencies, homemaker or home chore services, friendly visiting telephone reassurance programs and respite care to assist caregivers of the elderly help individuals stay in their own homes and with their families for as long as possible.

Community based services such as adult day care, senior center programs, meals in group settings, and legal and employment services are provided at local locations and provide an important part of the long term care continuum.

Access services assist an elderly person or family member locate and connect with transport information and referral services which best meet their care needs.

Long Term Care Reform is essential when you consider the changing demographics as Montana's population ages and the need for services for older Montanan's increases.

- 17.6 percent of Montana's population is over 60 years of age and each day another 23 people turn 60 years of age.
- In 35 of the 56 Montana Counties (where statistics are available) 20 percent of each county's population is over 60 years of age.
- The fastest growing age group in Montana is the group 85 years of age and older.

Individuals needing long term care should be able to receive that care all along the continuum from acute settings to nursing facility care to residential and home care. SB 158 will make the service system more responsive to the needs of consumers of all ages while making the delivery more cost effective.

SB 158 will provide the state and the community the authority to effect change and meet the increasing needs of Montanans for long term care.

DATE 2-13-95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 158 - SB 236 - SB 339 + SB 248

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Jocie Waldron	—	SB158		
Donald Heimbigner	Don's Septic Servic	SB 248		X
Betty Heimbigner	Don's Septic Service	SB 248		X
Bill Olson	AARP	SB158 SB236	✓	
Charlie Boggs	Mt. Area Aging Agencies	SB158 SB236	✓	
Claudia Clifford	State Auditor's Office	SB 339	✓	
Evely Hackyld	Hill County Aging Service	SB158 SB236	—	
Charles Rehbein	DFS - Office on Aging	SB 158 236	✓	
Tanya ABK	Blue Cross Blue Shield	SB 339	✓	✓
David Hanson	Mental Health Assoc.	SB339	✓	
Bruce Griffith	AARP	" 158 " 236	✓	
Lloyd Bender	AARP	SB 158 SB 236	✓	
Kate Cholewa	Human Service Found.	158 236	✓	
MARY ALLEN	MT. AREA AGENCIES On Aging Assoc	158 236	✓ ✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 2/13/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 158, SB 236, SB 339, SB 248

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Bob Raskopf	Self	SB 236		✓
Joe Brand	VFW	SB 236		✓
Lori Hughes	MT. Health Care Assn.	SB 236	✓	
Dick Bauerberger	Self	SB 236		✓
Ed Coplis	MSCA	SB 158 SB 236	✓	
Scott Orr	Storr Services	SB 248		✓
John Ward	LWCC	SB 248		
Gary Turney Sr	BT Pumping	SB 248		✓
Jim Augustine	Camp's Disposal Serv.	SB 248		✓
Conrad Eckert	Eckerts Septic Service	248		✓
Dan E. Amo	Amo Septic Service	248		✓
Billy Earl	Eckerts Septic Service	248		✓
Conrad C. Eckert	Eckerts Septic Service	248		✓
Dale Hunteman	DHES	248	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR

REGISTER.F10

can be made from Director Robinson's being asked to eliminate unnecessary functions of the department.

SENATOR BURNETT said, from the Department's standpoint, they're just spinning their wheels because it really isn't doing anything. The issuance of licenses isn't costing them anything, they just do some administrative work.

Motion: **SENATOR ECK made a substitute motion SB 248 DO NOT PASS.**

Discussion: **SENATOR BENEDICT** said he would rather see the bill tabled because a Do Not Pass means that it will be debated on the floor on an Adverse Committee Report.

Motion/Vote: **SENATOR ECK amended her motion that TO TABLE SB 248. The motion CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON SB 158

Motion/Vote: **SENATOR FRANKLIN moved SB 158 DO PASS. The motion CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON SB 236

Discussion: **Susan Fox** explained the amendments. She said these amendments come from the Department of SRS as technical amendments. Amendment 9, page 17, line 10, helps clear up some of the $100,000 problem and shows the importance of a single comma. It clarifies that it's the home the surviving spouse receives, not all of the surviving spouse's assets.

Motion/Vote: **SENATOR BENEDICT moved the AMENDMENTS to SB 236 DO PASS.**

Discussion: **SENATOR SPRAGUE** referred to the Fiscal Note and the expenditure of $190,000.

SENATOR BENEDICT said the amendments have nothing to do with the Fiscal Note. The $100,000 refers to the value of the assets.

Vote: **The Do Pass motion for the AMENDMENTS to SB 236 CARRIED UNANIMOUSLY.**

Motion: **SENATOR ECK moved SB 236 DO PASS AS AMENDED.**

Discussion: **SENATOR BENEDICT** said he knows that Medicaid costs must be contained, but he has a problem with the intrusion that this bill presents at the end of a person's life, and what they want to do with their assets. He thinks that a lot of people will

SENATE STANDING COMMITTEE REPORT

February 15, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 158 (first reading copy -- white), respectfully report that SB 158 do pass.

Signed: Jim Burnett
Senator Jim Burnett, Chair

Amd. Coord.
Sec. of Senate

391643SC.SRF

Closing by the Sponsor:

SEN. BENEDICT closed on the bill. He said there is access in every county in the state to the screening program and the out-patient referral program that is funded through the alcohol tax, so this is not a new program. The efforts will be shifted to a more intensive out-patient service. Nobody is trying to keep people out of the program that really need to be there. He said "inappropriate referral" means "somebody that didn't know what to do with a guy that was beating up on his wife over the weekend and got drunk," so the judge said he had a drinking problem and had him "thrown" into MCDC for 24 days. The assessment step should be part of the sentence to determine whether or not there are out-patient treatment services available first.

HEARING ON SB 158

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, said SB 158 had to do with a reform in a fundamental shift in the long-term care system. Seventy-five percent of Medicaid funds provide services for 25% of the clients who are elderly and disabled. In order to address the costs in Medicaid, long-term care needs to be addressed. She pointed out that the state of Oregon had moved to community-based long-term care services and in the process have saved $100 million in their Medicaid budget without sacrificing services.

The elderly need some alternatives to nursing homes. She said SB 158 had three components. It declares guiding principles of the state of Montana, demands cooperation between state agencies to provide those services, and reports to the Legislature in two years. This will develop a wide array of services that Montanans need and want and will be cost beneficial to the state.
EXHIBIT 8

Proponents' Testimony:

Peter Blouke, Director, Department of Social and Rehabilitative Services, testified in support of the bill. He said that Montana Medicaid spent over $100 million on long term care services in FY 94 which is one third of the entire budget. Since there are a high percentage of nursing home residents that qualify for Medicaid payments, this has put a strain on state finances and will become worse as more of the population becomes eligible for long-term care services. The bill would address the need for private financing of long-term care and implement solutions.
EXHIBIT 9

Bill Olson, American Association of Retired Persons (AARP), testified in support of the bill. He said the implementation of long-term care reform research shows that Society is aging and

the demands of that will be enormous. He said this bill would be a step in meeting solutions to this problem.

Don Allen, Montana Area Agency on Aging Association, testified in support of the bill. He said there were concerns by older Montanans. Since long-term care now includes home and community based care as well as institutional care, the concept of continual care stresses the need of the chronically ill elderly that there are different levels of care as health conditions and degree of care varies. This continuum of care implies a choice of the most appropriate services. Increased provision of community alternatives help to assist those elderly people that need help to function at the highest possible level of well-being in the least restrictive setting. The idea is to foster the most self-sufficiency and independence as possible.

Charles Rehbein, Department of Family Services, spoke in support of the bill. He pointed out the bill would address the planning process.

Denzel Davis, Administrator, Health Facilities Division, testified in support of the bill.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: n/a.}

Kate Cholewa testified in support of the bill.

Ed Caplis, Executive Director, Montana Senior Citizens Association, spoke in favor of the bill. He said long-term care is the cost driver of the Medicare program and that costs were increasing. This is a step towards controlling those costs.

Kay Kosow Fox, Montana Low Income Coalition, testified in support of the bill. She said they feel that Medicaid costs are skyrocketing and there must be some cost controls.

Opponents' Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN GRIMES asked **SEN. WATERMAN** if this bill sets up policies and goals the departments have to follow, would they have to come up with a delivery system. **SEN. WATERMAN** replied that was correct and it would be state policy to make it a community-based system as opposed to relying on just nursing homes.

REP. BERGMAN asked **SEN. WATERMAN** if this meant a move towards smaller groups. **SEN. WATERMAN** replied that it was like a boarding home model, assisted living centers, or social model like individual apartments with common areas. Respite care and adult foster homes are other examples. She said there is a wide variety that could be developed into additional services to assist people to live independently in their own home or with as little assistance as possible.

REP. BERGMAN asked if this meant less money to nursing homes and more to other areas. **SEN. WATERMAN** said that was where the shift was. Currently, 62% of Medicaid funds are spent on nursing home long-term care. She pointed out that in other states, nursing homes have opposed this because it was seen as a threat. However, nursing homes in Montana are full to capacity and it will help some rural communities maintain their medical facility or their nursing home.

REP. SIMON questioned the community-based services language that was mentioned frequently but not mentioned in the bill. **SEN. WATERMAN** replied that the language was in HB 2, but talks about people living independently in the community. **REP. SIMON** said this was the least restrictive and least expensive, but the bill when codified, the definition terminology was not in the bill. **SEN. WATERMAN** pointed out on page 2, line 9 and 10, about the development of community services that would allow a person to choose to live in their own residence or in the least restrictive setting.

REP. SIMON asked about elderly persons with disabilities obtaining insurance or private financing. **SEN. WATERMAN** said that currently, because of the class of services, most people end up in nursing home facilities. They end up impoverished very quickly or there are great incentives to shelter their assets and become Medicaid eligible. They need to move away from that and plan for their own long-term care. She noted that another bill would develop quality long-term care insurance for seniors.

REP. SIMON asked **Mr.** Blouke, about Section 53-6-402 part 4, that already shows direction and authority for the department which is what this bill is about. He wondered what was lacking in order to coordinate and implement programs for community based services. **Mr. Blouke** replied that one of the major benefits of SB 158 was the clear articulation by the legislation of the need for a coordinated, interdepartmental development and effort to develop this continuum of services. The department can establish community-based programs, however the services for the elderly are not just in SRS.

REP. SIMON questioned page 1 of the bill about whether this would create an entitlement for the elderly to have insurance. **Mr. Blouke** replied that they are entitled to the opportunity to gain insurance. People should have the choice. **REP. SIMON** wondered if this could be construed to assume people would have a right to community-based programs that may not be available in their community. This may prove to be an obligation to create programs that are not in existence presently or in the future because of this language.

{Tape: 2; Side: A; Approx. Counter: 355; Comments: n/a.}

Mr. Blouke replied that it was not their intent to offer a full range of services. The process would take many years. The

intent, over a period of time, would be to develop a full continuum of services to the extent the resources are available. He pointed out that nursing homes are considered an important part of that continuum. He said this would provide goals and directions.

REP. SOFT inquired about the Legislative intent of the 1993 session about the continuum care and long term services. **Mr. Blouke** said that the tremendous growth in the Medicaid program was reviewed to try to control growth and provide more appropriate services with the available resources. An advisory committee to deal with the long-term care issue was created that involved providers, advocates and legislators. This committee has developed issues that deal with long-term care solutions.

REP. SOFT asked if this meant that the Legislature had to get involved with continuing care as opposed to the development of the services. **Mr. Blouke** replied that the continuing care was not developed fully. To develop the continuum of care would take a number of years.

{Tape: 2; Side: A; Approx. Counter: 540; Comments: n/a.}

REP. SOFT asked what the continuum of care was that had been developed and was there a reduction of expenditures in long-term care as a result of this, since the 1993 session. **Mr. Blouke** replied that it was difficult to determine reduction in expenditures. However, through the waiver program, the long-term care nursing home costs have been stable in Montana as opposed to many other states for the last 5-6 years. Part of that stability can be attributed to the services developed under the waiver program, such as home-based community services. He pointed out that part of the problem was how to deal with the licensure issue. Some ideas are in place for development of alternatives to nursing homes.

REP. SOFT asked if this bill would set forth the principles and policies for the system. He noted that these ideas had been talked about for two sessions, but had not reached the actual services portion. **Mr. Blouke** replied that there were some appropriations to begin the process. He said this bill represented a major change in the direction in which the state is dealing with the long-term care issue. Long-term care has been nursing homes, however, this represents an opportunity for the state to deal with these issues.

REP. SIMON asked **SEN. WATERMAN** about the report that was going to be put together to reform licensing of facilities. **SEN. WATERMAN** discussed the background of the issues.

{Tape: 2; Side: A; Approx. Counter: 800; Comments: n/a.}

She said there may be some licensing issues that need to be dealt with next session. There are a broad array of issues identified

in the report. If a full spectrum of services were developed these issues might need to be addressed, one of which was the licensing issue.

REP. SIMON asked what the bill was implementing. **SEN. WATERMAN** said this was a systemic shift in the way services were delivered and the way long-term care is viewed. This was a philosophical shift based on what people need, not on the services which are funded through Medicaid. Presently, services are driven for the elderly and disabled on what they are eligible for and who will pay for it. The kind of services they get depend on who is paying for it in the state of Montana, not necessarily on the services needed. This would be a fundamental reform.

REP. MARTINEZ asked how this would differ from the foster homes for the elderly. **SEN. WATERMAN** said they would be a part of the array. She told about a situation where an individual was left over the weekend in an adult day care facility due to an emergency. However, the facility was only licensed as a day care. This was a gap in the services, however, there needs to be that option available as part of the system.

Closing by the Sponsor:

SEN. WATERMAN closed on the bill. She said the bill sets the policy for an array of services.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: n/a.}

HEARING ON SB 236

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, presented SB 236. She discussed the fundamental shift in the last biennium and the allocation of $1 million dollars to expand the community-based waiver for elderly and disabled in the state. They were able to provide some services to some brain-injured people and those people who were at risk of going into the nursing home. The home and community-based waiver will provide home and community services for people who would, without those services, end up in a nursing home. She said that SB 236 would bring Montana into compliance with federal laws concerning a state recovery. More importantly, it would preserve Medicaid funds for those who truly need those services.

She explained that Medicaid was established to assist low income people, yet it has become a first payer for not only Montanans, but Americans. SB 236 would prevent people from sheltering their assets. It would require recovery of Medicaid costs from the estates of Medicaid recipients. It would allow a lien to be placed on a recipient's home, but only if there is no spouse or no dependent children residing in that home at the time the lien is established. The lien can only be executed after the death of

EXHIBIT
DATE 3/1/95
SB 158

158

Senator Wiggins Waterman

Nursing Homes And Common Sense

For decades, nursing homes have been the primary providers of long-term care. But are states spending billions of dollars on sophisticated care that most of the elderly don't need?

Nurses are on duty. Doctors are on call. The hallways, tiled in ammonia-scrubbed linoleum, are lined with groups of elderly people sitting in wheelchairs or shuffling behind walkers. Some are making their way to the large dayroom where a television set is the focal point of their social life. Meanwhile, nursing aides check on bed-bound and coma-

BY PENELOPE LEMOV

Kristin Finnegan photographer

Some states are creating systems that offer the elderly less-institutional services.

tose patients—changing their linen, feeding them meals, administering their medications.

Staffed and equipped for the needs of their sickest residents, nursing homes are the overwhelmingly dominant provider of basic medical care and intensive supervision for the very frail, chronically ill and the physically disabled.

The problem is that most of the people in nursing homes do not need this level of service. Rather, what they require is help with some of the routine tasks of daily life. In fact, experts estimate that somewhere between 60 and as many as 75 percent of nursing home residents could be cared for in a more appropriate and less expensive way.

sary part of any long-term care system. They are essential for people, elderly and otherwise, whose disabilities demand 24-hour-a-day medical supervision, such as the elderly person in the last stages of a dementia disease like Alzheimer's or the disabled person on life-support systems.

But nursing home care comes with a big price tag. Today, the average cost per person is $37,000 a year. States, through their share of the Medicaid program, spend roughly two-thirds of their long-term care dollars to cover this type of care. While states might once have been able to afford these costs, the fiscal constraints of the 1990s and the demographic trends of the 21st century are poised to overwhelm systems that depend on nursing homes as the primary providers of care.

Demographically, the peak of the baby-boom generation will reach age 85 in the year 2040. And given that modern medicine is enabling folks to live longer than ever, the number of elderly needing some form of long-term care is expected to more than triple in the coming decades. Long-term care lurks as the sleeping giant of the health-care system and states that fail to re-order their long-term care programs may awaken to a nasty fiscal surprise.

"The reality is that there will be additional financial burdens, and states that are struggling now will struggle more," says Joshua Wiener, a senior fellow at the Brookings Institution. "But this is manageable if we have the political will to maintain our current level of expenditures and create a more balanced system that provides people with choices other than just nursing home care."

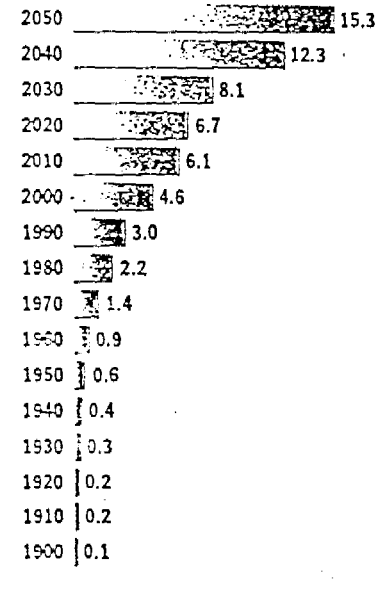
About a dozen states—Arkansas, Georgia, Illinois, Maine, Massachusetts, Minnesota, New York, Pennsylvania, Ohio, Oregon, Washington and Wisconsin among them—have been leading the movement to adjust their systems to current and future realities. They have closed nursing home beds or placed restrictions on the building of new beds and have reallocated money from institutionalized care to new and less expensive services such as personal care, home health, adult day care, adult foster care and assisted living.

None of this has been easy. There are both political pressures and fiscal concerns that make it risky to expand services. And that has slowed progress in most states.

Long-term care never used to be the political issue it is today. In the first half of the century, elderly people either lived with their families or in boarding houses where landlords provided the occasional assistance, some more humanely than others. Then, in 1950, Congress passed an amendment that forbade Social Security payments for residents of institutions if those institutions did not provide health care. Boarding

GROWING OLDER

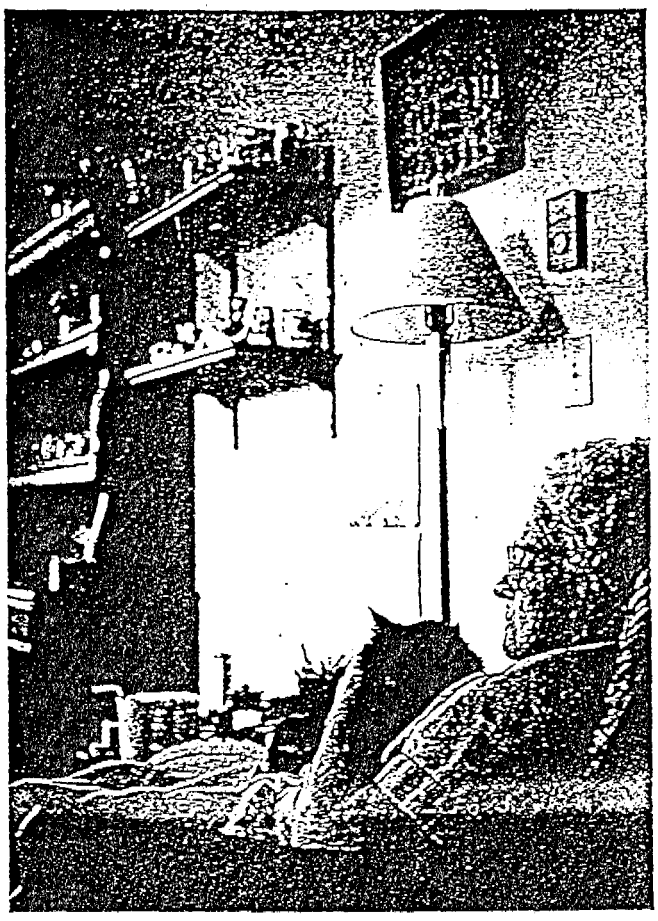
U.S. Population 85 Years and Over
(in millions)



Source: U.S. Census Bureau

end to see community-based are in general, and programs e assisted living in particular, s a threat to their livelihood. With assisted living arrangements, personal, social and medical care are provided on an as-needed, fee-for-service basis to residents who live in private apartments in specially designed and staffed buildings. Obviously, as the availability of such facilities expands and more people can be served in this way, nursing homes may not be quite as full and, for profit-motivated chains, it will be more difficult to justify the need to build more of them.

The funding stream plays into e politics. In most states, Medicaid dollars flow into welfare or public health departments for use in purchasing nursing home care, making those departments more or less captives of the industry. To free itself, a state has to push its agencies to obtain federal waivers that allow them to reallocate the money. In some states, it also means asking the legislature to change laws or write enabling legislation.



With assisted living, older folks can live in private apartments and pay only for the care they need.

Oregon started down that road in 1981 with a seemingly innocuous move: The legislature passed a law that consolidated Medicaid funding for long-term care with all other state and federal money targeted for elderly care. The underlying philosophy was that if one agency controls all the elder-dollars, it would be easier to allocate them. Over a period of time, the division that handles senior and disabled services has, in effect, taken money away from nursing homes—the overall head count for nursing home beds has shrunk accordingly—and put money into developing resources for community-based alternatives.

"Politically, this is a very difficult thing to do," says Elizabeth Kutza, director of the Institute on Aging at Portland State University. "It doesn't make the nursing homes happy, and they have clout." In many states, they exercise their influence subtly and without leaving many footprints. They may not lobby directly against legislation to consolidate funding or fight the development of alternatives by opposing them head-on. Instead, nursing homes often ally themselves with other groups interested in a particular subject and target a side issue such as safety or regulation. In effect, they can kill a proposal with seeming kindness and concern for the elderly.

Politically, putting money into nursing-home alternatives is very difficult to do, says Elizabeth Kutza of Portland State University.

For example, rather than rail against assisted living outright, they might provoke a fight against enlarging the roles of nurses—a reform that makes care in assisted-living units possible. Or they may argue that, for safety's sake, assisted living should be subject to the same regulations as nursing homes.

There is a legitimate question with this new breed of facility about where to draw the line on protecting elderly people from possible abuse and over-regulating to the point of institutional rigidity. There is also a need to look at regulation in a different way. "Most of our rules have to do with measuring objective things—the height of ceilings, the degree of water—things surveyors can look at and measure," says Richard Ladd, Texas' commissioner of health and human services who headed up Oregon's long-term care reform efforts in the 1980s. "They're important, but they don't tell you a lot about the quality of care." What Oregon and others dealing with assisted living are trying to come up with is a results-oriented approach, but that would mean constructing guidelines that are more subjective.

Regardless of this dilemma, there is hardly anyone, apart from nursing home lobbies, who would like to see assisted living laden with the same kinds of regulations that burden nursing homes: Certainly not consumers, or advocates for the elderly and disabled, or state and local officials who deal with long-term care services on a day-to-day basis. Almost everyone agrees that nursing homes are now over-regulated—to the detriment of the atmosphere and environment in which residents of the homes must live. To do more of the same for assisted living would clearly be counterproductive: If all the staffing and medical personnel requirements of a nursing home were laid on an assisted living facility, the price for care would creep up and into the nursing home range.

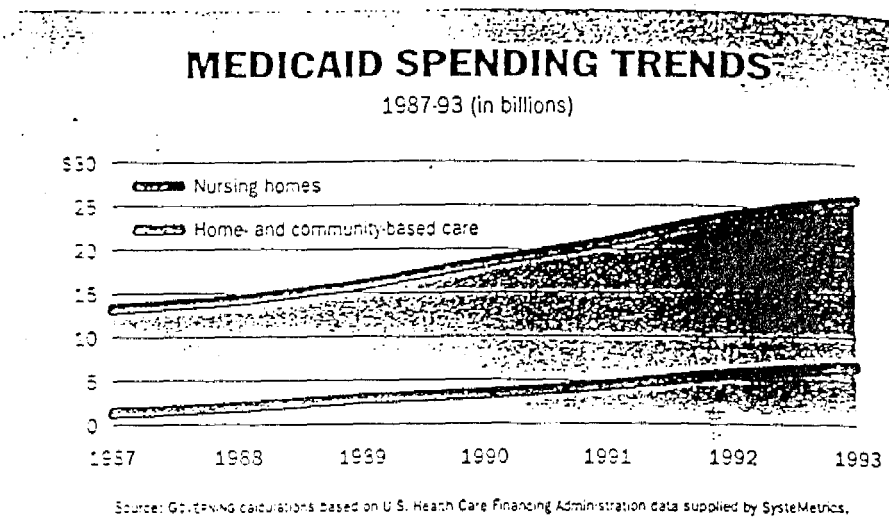
But political pressure is not the only countervailing influence. A major reason states are not moving even faster to add to their array of services is a widespread and perhaps not unfounded fear that adding the services

houses did not: nursing homes did.

Out of such small bureaucratic change is a new world born. Boarding houses just about disappeared; new nursing homes were built and flourished. In 1965, nursing homes got another boost when Medicare and Medicaid were signed into law. Medicare helped nursing home fortunes only peripherally: it paid nursing home bills only if care followed a hospital stay and was brief in duration. But Medicaid, the federal-state partnership for the poor, had the mandate to become the great provider. It could pay for chronic care at nursing homes for as long as such care was needed—and that could be the rest of an elderly person's life. With public money to pay the tab, modern nursing homes hit pay dirt and became the dominant force in long-term care.

They also worked their way into the public psyche. "Somehow, between 1965 and 1975, we decided the only place an older person was safe was in a nursing home," says Jim Wilson, who heads up Oregon's Senior and Disabled Services. "Now we're having a hard time getting people to see that it isn't necessarily so."

Those who see that—the elderly, their advocates, the majority of long-term care experts and a slew of state and federal health-care officials—have had a hard time turning around Medicaid funding so that it covers something other than nursing-home care. It wasn't until 1981 that states could hope to win federal approval to pay for home services under Medicaid. Eventually, almost all the states applied for and gained such waivers, but only on a limited basis. Oregon is the major exception: It has been able to offer its elderly and disabled population a comprehensive selection of home- and community care options and to cover them under their Medicaid program.



Source: Gerontological calculations based on U.S. Health Care Financing Administration data supplied by SysteMetrics.

And that has been and continues to be a tough political fight. While various advocacy and consumer groups have been applying pressure for community-based alternatives, they don't generally speak with one voice, and their voices are not as powerful as others. "Reformers," says Trish Riley, who heads the National Academy for State Health Policy, "are outshouted and outspent by the nursing home lobbies."

It is, of course, in the interest of nursing homes to have state long-term care systems dependent on their services. Some nursing homes, particularly non-profit facilities run by religious or other community groups, have begun to branch out and augment the services they offer—hosting adult day care programs, building apartment complexes designed for assisted living or running home health and personal care programs for elderly people who can then continue to live in their own homes. Daniel Thursz, president of the National Council on the Aging, characterizes these instances of change, which are most prevalent in large cities, as a reflection of nursing homes "facing the fact that they will not be able to survive if they provide only that one service."

But the overwhelming majority of the 22,000 nursing homes in the country

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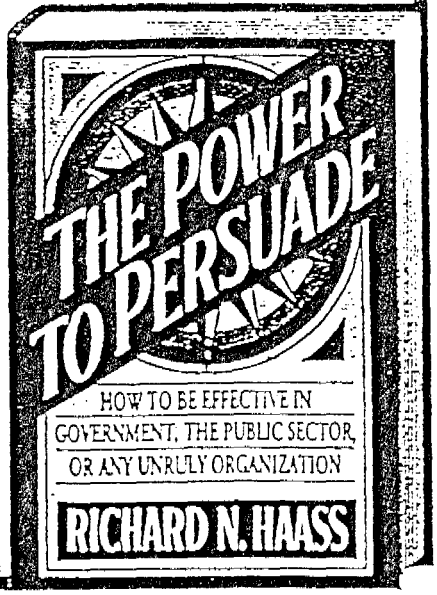
*As reported in the Washington Post, May 13, 1994



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EXH. 8 3-1-95 SB 158

THE COSTS OF LONG-TERM CARE, 1993

State	Long-term care costs (in millions)	Long-term care as a % of total Medicaid	Nursing home care costs (in millions)	Nursing home care as a % of total long-term care
Ala.	$471.9	26.8 %	$331.4	70.2%
Alaska	55.7	18.9	42.3	75.8
Ariz.	11.5	0.8	10.9	95.0
Ark.	412.1	40.0	251.9	61.1
Calif.	2,295.3	17.0	1,878.5	81.8
Colo.	362.7	34.2	220.1	60.7
Conn.	1,128.9	50.0	727.1	64.4
Del.	107.8	42.6	58.2	53.9
Fla.	1,362.9	27.5	1,011.9	74.2
Ga.	730.2	26.1	531.1	72.7
Hawaii	122.9	32.3	101.8	82.8
Idaho	126.6	43.1	69.0	54.5
Ill.	1,774.0	35.6	1,103.3	62.2
Ind.	1,038.1	36.9	712.7	68.7
Iowa	404.0	40.9	222.9	55.2
Kan.	330.2	37.1	176.8	53.5
Ky.	502.3	27.0	332.2	66.1
La.	886.5	25.4	526.1	59.3
Maine	327.9	38.5	224.8	68.6
Md.	593.5	30.3	401.1	67.6
Mass.	1,638.4	39.7	1,068.8	65.2
Mich.	1,326.5	30.8	922.3	69.5
Minn.	1,269.6	59.5	740.2	58.3
Miss.	299.8	25.1	211.5	70.5
Mo.	645.9	28.7	418.0	64.7
Mont.	133.0	41.1	91.6	68.9
Neb.	$250.3	44.4 %	$179.0	71.5%
Nev.	112.4	26.5	73.7	65.6
N.H.	219.0	52.4	147.5	67.4
N.J.	1,576.4	33.5	987.8	62.7
N.M.	167.5	29.3	99.6	59.5
N.Y.	8,189.5	42.2	4,094.8	50.0
N.C.	1,058.8	36.6	585.9	55.3
N.D.	155.0	57.5	92.6	59.7
Ohio	2,060.2	39.8	1,497.4	72.7
Okla.	443.3	40.7	237.5	53.6
Ore.	413.2	43.2	159.1	38.5
Pa.	2,240.7	40.0	1,524.9	68.1
R.I.	395.7	47.7	203.4	51.4
S.C.	424.9	25.3	208.8	49.1
S.D.	131.8	49.5	78.1	59.3
Tenn.	675.3	30.0	524.3	77.6
Texas	1,771.3	24.9	1,050.3	59.3
Utah	150.2	31.4	72.1	48.0
Vt.	111.4	43.6	65.5	58.8
Va.	600.9	33.5	372.8	62.0
Wash.	836.3	36.1	452.7	54.1
W.Va.	315.4	26.3	209.0	66.3
Wis.	1,030.2	49.0	649.5	63.1
Wyo.	46.4	34.4	25.6	55.2
U.S.	41,953.9	33.4	26,116.6	62.3

Source: GOVERNING calculations based on U.S. Health Care Financing Administration data supplied by SysteMetrics.

consumers want, no matter how much cheaper they are than nursing homes, will ultimately increase state costs. The savings that would result from diverting people away from nursing home care could be offset by the widened net of people who are brought into the Medicaid system through the addition of services.

It's called "the woodwork effect," and it's based on human behavior: When faced with a choice of nursing home care or nothing, many elderly people opt for nothing. But if that choice were broadened to include home care or assisted living, they would be more likely to sign on for help.

This issue was raised and studied in the 1970s. At that time, national surveys found that for every person in a nursing home there were at least two others just as ill who were living at home—either because they chose not to go to a nursing home or because a bed was not available. The federal Health Care Financing Administration, which manages the Medicaid program, noted that states that expanded their Medicaid programs to include community-based services might pick up those two other people who wouldn't otherwise have been in their programs.

"States are still worried that if they change the type of service being financed, the services will be so much more attractive to a larger pool of potential users that they won't be able to control costs," says Rosalie Kane, a professor at the University of Minnesota School of Public Health and the director of the National Long Term Care Resource Center.

States worry that expanding services will widen the net of potential users and that they won't be able to control costs.

Oregon, with five years' experience in offering a wide range of community-based programs, is protecting itself from net-widening in two ways: case managers, who oversee home and community-care patients, must assure the state that anyone approved for alternative care could not continue to live at home without assistance. The other strategy is to pair new services with the closing of nursing home beds. And that's been very effective. In the past 10 years, Oregon has reduced the number of nursing home beds by nearly 8 percent, even as the elderly population grew by 40 percent.

One side effect of the greater array of services is that Oregon now covers a larger percentage of all nursing home patients. It paid for 46 percent five years ago when the alternative-care programs started; it pays for 54 percent today. "What that tells me," Wilson says, "is that private-pay residents aren't choosing nursing homes as frequently as in the past."

By covering community-based ser-

vices such as assisted living through Medicaid, the state created a climate in which more services and facilities became available. Private developers saw opportunities for profit—much as nursing home operators built new facilities when Medicaid began covering costs in 1965. And the growth of new community-based facilities for all income levels has been a plus for the state and its Medicaid budget.

"This wasn't a strategy Oregon developed just to reduce costs," Kutza says. "It's a consumer choice as well." She notes that even people who require a lot of personal services and would be considered nursing home care material in almost any other place are able to use alternatives. "What we've done is pushed the boundaries. In other states, you would find nursing homes dominated by people who look like the people in our assisted living or adult foster homes."

When private-pay patients can choose services they like, they're more willing to pay for them, as opposed to nursing homes, where they may transfer assets in order to avoid payment. Since alternative services cost less than nursing home care does, a person's assets and income last longer. An elderly person can handle the $800 a month for community-based services for a much longer period of time than $2,500 a month for nursing home care. "That means they are less likely to spend their way into Medicaid eligibility," Wilson points out. "They end up not coming into our system."

While the demographic threat to long-term care budgets has been building for a long time, there may be a new incentive for states to make faster headway in reforming their programs. It's called national health-care reform, and it would affect state Medicaid budgets whether or not chronic care is part of a universal package of benefits. Here's why: Under almost any measure that Congress passes, hospitals and physicians will be pressured to control their costs for acute care. Among the ways these providers can control such costs, notes Brookings' Wiener, is to either move patients out of acute care and into long-term care or try reform," Wiener says, "this would be an escape hatch."

As a result, the costs would be passed on from a system in which costs are controlled to one in which there are no mandated limits. The stress of additional patients and new charges for states to cover would come on top of all the demographic changes they will be experiencing.

Whatever permutations there may be in the national or local political climate, the long-term care stakes remain high. "We need to do what Oregon has done and rethink our long-term care policies," says Trish Riley of the National Academy for State Health Policy. "Until we do, the failed policy we have today will continue to eat up scarce resources for services that older people don't want at the expense of critical primary care for poor families, young and old." G

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EXHIBIT 9
DATE 3/1/95
SB 158

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

MARC RACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210

TESTIMONY OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES BEFORE THE HOUSE HUMAN SERVICES AND AGING COMMITTEE
(Re: SB 158 - Montana Long-Term Care Reform Act)

Senate Bill 158 has three components. First, it sets forth a policy for Montana's long term care system and declares the guiding principles for the development and implementation of services within the system. Second, the bill mandates that various state agencies cooperate in developing, implementing and coordinating state long term care programs. Finally, SB 158 requires a report to the 55th Legislature on the progress of long term care reform.

In 1993, the Legislature mandated the department of social and rehabilitation services to develop a continuum of care designed to limit the growth of state expenditures for long-term care services to people who are elderly or disabled. As the department worked to carry out this mandate, the need for a **system** of coordinated long term care services became apparent.

Montana offers a variety of programs and services within several agencies which supports and assists those people who are elderly or have disabilities and need long term care. Those programs and services, however, are frequently not well coordinated; the result is a structure which is fragmented and confusing for both those seeking services and those providing services. Thus, the lack of a system means that people seeking services must respond to requests for the same information by different agencies. Conversely, because state agencies currently do not have a common intake process nor a shared information database, the agencies cannot serve people in a coordinated manner nor can they determine whether an individual has been served in the most efficient manner.

This bill proposes to remedy these problems by setting forth principles and policies to guide the development of Montana's long term care system. These principles and policies have developed from discussions carried out in several forums. The directors of the departments of family services, health and environmental services, corrections and human services, and social and rehabilitation services have been meeting regularly over the last several months to discuss and move toward coordinated long term care policies and programs. Additionally, members of the long term care subcommittee of the Governor's Council on Aging have considered these issues in depth.

The bill states that Montana's long term care system must:

*respect the dignity of the individual;
*seek to encourage a maximum level of individual independence;

*include community services which allow the person to continue to live at home;
*encourage services which are affordable to all Montanans;
*foster private financing of services; and
*be a system of coordinated services and programs which are accessible and cost-effective.

To ensure the coordination of services, the bill also directs the departments of social and rehabilitation services, family services, health and environmental sciences, and corrections and human services to cooperate in the development and implementation of state programs. Through joint planning and delivery systems, Montana can build a system of cost-effective, accessible programs to assist the elderly and persons with disabilities. Such elements as a common intake and assessment process will provide easy entry of the individual into the system of services and also allow for efficient program management and accountability.

Finally, the bill requires a report to the 55th Legislature which presents progress from these efforts and recommends further changes needed to establish Montana's long term care system.

On behalf of the Department of Social and Rehabilitation Services, I urge you to pass SB 158. Thank you for holding this hearing and listening to my comments.

Submitted by: Peter Blouke, Director
Department of Social and
Rehabilitation Services

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services & Aging

DATE March 1, 95

BILL NO. SB 158 SPONSOR(S) Waterman

PLEASE PRINT PLEASE PRINT PLEASE PRIN

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Charles Rehbein	DFS	✓	
Kate Cholewa	Human Services Foundation	✓	
Denzel Davis	DHES		
Bill Olson	AARP	✓	
Ed Coplis	MSCA		
Milly Gutkoski		✓	
Charlie Briggs	Mt. Assn. Agencies on Aging	✓	
Don Allen	Mt. Assn. of Area Agencies on Aging	✓	
Kay Kasso Fox	Montana Low Inc. Coalit	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT F
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

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Discussion:

REP. SIMON asked if the amendment would encourage cremation as it is a much less expensive way of burial and thus the family would receive more back from the trust.

REP. KOTTEL replied that if there are last minute expenses it might be taken into consideration how that burial money is used.

Vote: **The motion carried 13-3 with REPS. MOLNAR, SIMON and S. SMITH voting no.**

Motion: **REP. JOHN BOHLINGER MOVED THAT SB 236 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. L. SMITH said that the reality was that if family members were not taking care of the elderly then the nursing homes would need to. She felt the committee was not dealing with reality.

REP. GREEN gave personal testimony about his experience with his mother being in a nursing home. He described the selfishness of the individuals who want to keep their parents' money instead of paying for the nursing home care.

REP. L. SMITH reiterated that in Colorado there is a five year requirement for the transfer of assets.

REP. SOFT mentioned that the bill also enacts the five year requirement.

Vote: **The motion carried 11-5 with REPS. SQUIRES, AHNER, HAGENER, MARTINEZ and L. SMITH voting no.**

{Tape: 3; Side: A; Approx. Counter: 930; Comments: NA.}

EXECUTIVE ACTION ON SB 158

Motion/Vote: **REP. CHRIS AHNER MOVED THAT SB 158 BE CONCURRED IN. The motion carried unanimously.**

{Tape: 3; Side: B; Approx. Counter: 00; Comments: NA.}

EXECUTIVE ACTION ON SB 134

Motion: **REP. KEN WENNEMAR MOVED THAT SB 134 BE CONCURRED IN.**

Motion: **REP. DEB KOTTEL MOVED TO AMEND SB 134. EXHIBIT 7**

Motion: **REP. KEN WENNEMAR MOVED TO SEGREGATE REP. KOTTEL'S AMENDMENT.**

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL DATE 3/15/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓		
Rep. Susan Smith	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		

HOUSE STANDING COMMITTEE REPORT

March 16, 1995

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 158 (third reading copy -- blue) be concurred in.

Signed: *Duane Grimes, Chair*

Carried by: Rep. Bohlinger

Committee Vote:
Yes 16, No 0.

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HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Human Services and Aging Committee

DATE 3-15 95 BILL NO. SB 158 NUMBER _____

MOTION: Rep. Ahner "Do Concur"

Unanimous

NAME	AYE	NO
Rep. Duane Grimes, Chairman		
Rep. John Bohlinger, Vice Chairman, Majority		
Rep. Carolyn Squires, Vice Chairman, Minority		
Rep. Chris Ahner		
Rep. Ellen Bergman		
Rep. Bill Carey		
Rep. Dick Green		
Rep. Toni Hagener		
Rep. Deb Kottel		
Rep. Bonnie Martinez		
Rep. Brad Molnar		
Rep. Bruce Simon		
Rep. Liz Smith		
Rep. Susan Smith		
Rep. Loren Soft		
Rep. Ken Wennemar		